

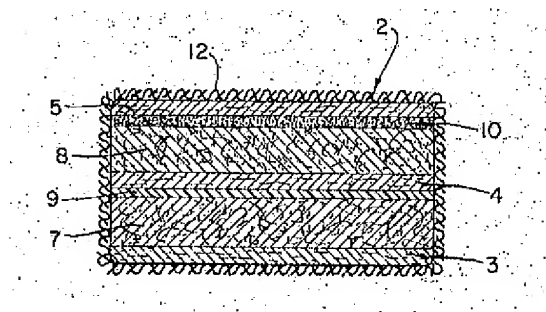
REMARKS

Currently, claims 17-18, 22-28, 32, and 34-45, including independent claims 17 and 35, are pending in the present application. As an initial matter, claim 43 was objected to in the Office Action for not containing the phrase "styrene-acrylic." This has been corrected as indicated. Furthermore, claim 17 was also objected to on the basis that the phrase "at least one binder" is not in accordance with the transitional phrase "consisting of", and renders it unclear whether other binders are included. Applicants note that the phrase "consisting of" simply means that elements other than those recited are excluded from the claim. *MPEP* § 2111.03. In this case, the phrase encompasses activated carbon particles and one or more binders. Even in a closed ended claim, it is entirely proper to allow for the possibility of more than one binder. In fact, coverage of one or more of a certain ingredient is often a common characteristic of *Markush* groups, which also employ the "consisting of" language. Applicants also note that the statement in the Office Action that multiple binders would "materially alter the characteristic of the composition" is misplaced in that this language only applies to the phrase "consisting essentially of." For at least these reasons, Applicants respectfully request the withdrawal of this objection.

In the Office Action, independent claims 17 and 35 were also rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,639,004 to Falat, et al. in view of U.S. Patent No. 3,340,875 to Dudley, et al. Falat, et al. is directed to packaging material that is formed from a LDPE film coated with an aqueous solution of activated carbon. As correctly noted by the Examiner, however, Falat, et al. fails to disclose various limitations of the present claims. For example, Falat, et al. fails to disclose any

absorbent articles, much less one in which an odor sorbent substrate is positioned between the baffle and absorbent core of the absorbent article, and wrapped around the absorbent core in a manner that one or more sides are left open.

Nevertheless, the Office Action also combined Dudley, et al. with Falat, et al. in an attempt to render obvious certain limitations of the claims. In Fig. 2 of Dudley, et al. (re-produced below), a sanitary napkin 1 is shown that contains a bottom layer 3, central layer 4, and top layer 5, each of which are formed from a creped wadding or multi-layered cellulosic tissue. (Col. 2, l. 37-39).



The central layer 4 of fibrous wadding material carries a barrier element 9, which can be an impermeable film to prevent "strike through." (Col. 2, ll. 41-45). The sanitary napkin 1 also contains intermediate fillers 7 and 8 of "fluff" material. Dudley, et al. indicates that the deodorizing media 10 can be disposed in a "U-shaped fashion" around the outer periphery of top layer 5, intermediate layer 8, and central layer 4. (Col. 2, ll. 47-56).

The Office Action argues that the barrier element 9, top layer 5, and intermediate layer 8 of Dudley, et al. correspond to the claimed "liquid-impermeable baffle", "liquid-pervious liner", and "absorbent core", respectively. However, even if this were the case, the "U-shaped" deodorizing media would also be wrapped around the "liquid-pervious

liner." This is not permitted by the present claims as the odor sorbent substrate is positioned between the liner and the absorbent core. For this reason alone, Applicants respectfully submit that the claims patentably define over the cited references.

In any event, one of ordinary skill in the art would not have found it obvious to modify the references in the manner suggested by the Office Action. Falat, et al. is directed to a "packaging" material for packages, trash bags, pouches, etc. Dudley, et al., on the other hand, is directed to a sanitary napkin. Respectfully, one of ordinary skill in the art would not have looked to a reference dealing with sanitary napkins in an attempt to bring certain of its components (e.g., absorbent liners, absorbent cores, etc.) into a reference dealing with packaging materials. In fact, such absorbent components would destroy the entire purpose of a liquid-impermeable packaging material. This difference is further characterized by the fact that Falat, et al. expressly contemplates the use of its activated carbon material on a LDPE film, which is impermeable to liquids and generally hydrophobic. In stark contrast, the deodorizing media of Dudley, et al. is specifically applied to absorbent, hydrophilic cellulose materials. Once again, the differences between these references are so substantial that one of ordinary skill in the art would simply not have made the combination suggested.

Applicants emphasize that the issue in conducting an analysis under 35 U.S.C. §103(a) is not whether a theoretical re-design of a device is *possible*. Instead, the issue hinges on whether the claimed invention as a *whole* would have been obvious. In this case, the Office Action parsed and dissected only certain portions of the references, and then used these dissected portions in a way that would require a substantial reconstruction of the references. Respectfully, the Office Action is using the present

application as a "blueprint" for selectively re-designing the reference, which is improper under 35 U.S.C. § 103. Applicants respectfully submit that one of ordinary skill in the art would not have found it obvious to modify the references in the manner suggested in the Office Action.

Thus, for at least the reasons set forth above, Applicants respectfully submit that independent claims 17 and 35 patentably define over the cited references. Further, at least for the reasons indicated above relating to corresponding independent claims 17 and 35, the corresponding dependent claims also patentably define over the references cited. However, the patentability of the dependent claims certainly does not hinge on the patentability of the independent claims. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claims.

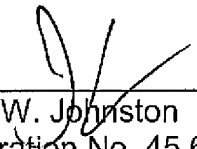
It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Chapman is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Appl. No. 10/723,761
Amdt. dated June 14, 2010
Reply to Office Action of April 14, 2010

Respectfully requested,

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Date: 6/14/10